

REMARKS

Request for Reconsideration

Applicant has carefully considered the matters raised by the Examiner in the outstanding Office Action but remains of the position that patentable subject matter is present. Applicant respectfully requests reconsideration of the Examiner's position based on the attached replacement sheet, the amendments to the specification, the amendments to the claims and the following remarks.

Specification Amendments and Drawing Amendments

As per the Examiner's suggestion, the title of the invention has been changed.

The Examiner had objected to the disclosure for several informalities which have been corrected through this amendment. Moreover, the Examiner noted the absence of reference character 10b from Fig. 4 and attached hereto is Substitute Sheet of Drawing adding this reference character to Figure 4.

Claim Status

Previously submitted claims 1 – 4 and 6 – 17 remain pending, claim 5 being cancelled by this amendment. Claims 18 – 25 are new. The fee associated with the extra four new claims is paid herewith.

Claim 7 was objected to for its use of reference characters. Claim 7 has been amended to eliminate the use of reference characters, thereby obviating this objection.

The Prior Art Rejections

Claims 1, 3, 4, 6-10, 12-15, and 17 stand rejected under 35 USC 102(b) as being anticipated by Bogner et al. (DE10146612).

Claims 2 and 11 stand rejected under 35 USC 103 (a) as being unpatentable over Bogner et al. in view of Bonkowski et al. (DE10057818).

Claims 5 and 16 stand rejected under 35 USC 103 (a) as being unpatentable over Bogner et al. in view of Sayer (6,267,023).

Insofar as claim 1 has been amended to include the limitations of claim 5 (which has been cancelled), and similar limitations (discussed below) are to be found in the other newly added claims as well, it is only the rejection of claim 5 that is believed to be pertinent, and this rejection is respectfully traversed for the following reasons.

Claim 1 as amended now recites the presence of support faces (previously presented in claim 5) which are at an angle of less than 180 degrees with respect to one another. It has also been further amended to include the new limitation that the support faces be pivotable with respect to the reference faces.

After acknowledging that the base reference Bogner et al. "fail to teach an actuating lever with two support faces that are at an angle with respect to one another and which in conjunction with the reference faces of the housing of the internal combustion engine ensure defined end positions of the actuating lever" the Examiner looked to Sayer for its putative teaching of a lower steering arm assembly having "an actuating lever 43 with two support faces 44, 45 which are at an angle with respect to one another (col. 5, lines 39-40) and which, in conjunction with reference faces (46, 47) of a housing (18) if the internal combustion engine (since the invention is used for steering arm; it is construed that it could also be used for

an internal combustion engine part), ensure defined end position of the actuating lever (see Fig. 3 and 4)” (Office Action, page 8)

The Examiner then averred that “it would have been obvious to one of ordinary skill in the art to modify the mechanism of Bogner et al. to include the actuating lever to art taught by Sayer in order to provide better movement of the mechanism.” (id.)

The present invention is directed to a means for controlling the tension in a drive belt attached to an engine, where the forces at work are orders of magnitude greater than those contemplated by Sayer, which deals with a steering unit. Therefore, one of ordinary skill in the art would not look to Sayer to modify a high-power application such as is presented by Bogner and for this reason the combination is improper and should be withdrawn. However, more fundamentally, the Sayer reference simply does not teach the invention as it is presently claimed.

As described on lines 35-50 in column 5 Sayer and clearly shown in Fig. 3, Sayer’s actuating lever 43 has four fixed arms: securing arms 46, 47 that the Examiner terms “reference faces”, and actuating arms 44,45, which the Examiner calls “support faces.” In fact, each of these faces is in fixed relation to all of the others and thus, unlike the invention as set forth in the claims (including the newly added claims), cannot teach or suggest a support face capable of pivoting with respect to a reference face. Hence, the rejections are improper and should be withdrawn.

Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,
LUCAS & MERCANTI, LLP

A handwritten signature in dark ink, reading "Donald C. Lucas", is written over a horizontal line.

Donald C. Lucas
Reg. No. 31,275

LUCAS & MERCANTI, L.L.P.
475 Park Avenue South
New York, New York 10016
Phone: 212-661-8000
Fax: 212-661-8002